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PTO/SB/21 (09-04)

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

13

Application Number	10/758,448
Filing Date	1/15/04
First Named Inventor	McVay et al.
Art Unit	3764
Examiner Name	AMERSON, L.B.
Attorney Docket Number	23156-151

ENCLOSURES (Check all that apply)

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form
<input checked="" type="checkbox"/> Fee Attached
<input checked="" type="checkbox"/> Amendment/Reply
<input type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)
<input type="checkbox"/> Extension of Time Request
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<input type="checkbox"/> Information Disclosure Statement

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Incomplete Application
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under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)
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<input type="checkbox"/> CD, Number of CD(s) _____
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of Appeals and Interferences

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(Appeal Notice, Brief, Reply Brief)

<input type="checkbox"/> Proprietary Information

<input type="checkbox"/> Status Letter

<input type="checkbox"/> Other Enclosure(s) (please identify
below):
Return Receipt Postcard |
|---|--|--|

Remarks

Fee Attached = PTO 2038

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Benesch, Friedlander, Coplan & Aronoff LLP
Signature	<i>Gregory S. Kolocouris</i>
Printed name	Gregory S. Kolocouris
Date	April 24, 2006

Reg. No. 47,714

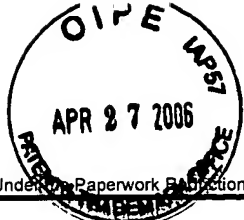
CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	<i>Gregory S. Kolocouris</i>
Typed or printed name	Gregory S. Kolocouris
Date	April 24, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2006☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 275.00

Complete if Known

Application Number	10/758,448
Filing Date	1/15/04
First Named Inventor	McVay et al.
Examiner Name	AMERSON, L.B.
Art Unit	3764
Attorney Docket No.	23156-151

METHOD OF PAYMENT (check all that apply)☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☐ Deposit Account Deposit Account Number: _____ Deposit Account Name: _____

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below☐ Charge fee(s) indicated below, **except for the filing fee**☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☐ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION** (All the fees below are due upon filing or may be subject to a surcharge.)**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES**Fee Description**

	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
_____ - 20 or HP =	7	25	175

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
_____ - 3 or HP =	1	100	100

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 =	_____ / 50 =	_____ (round up to a whole number)	x	_____ =

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): _____

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 47,714	Telephone (216) 363-4453
Name (Print/Type)	Gregory S. Kolocouris	Date April 24, 2006	

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : McVay et al.
Title : VARIABLY CONFIGURED EXERCISE DEVICE
Application No. : 10/758,448
Filing Date : January 15, 2004
Confirmation No. : 5624
Docket No. : 23156-151

AMENDMENT AND RESPONSE TO ELECTION OF SPECIES REQUIREMENT

M.S. Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Examiner:

In response to the Election of Species Requirement dated March 22, 2006, please amend the above-referenced patent application ("subject application") as follows:

- (1) **Amendments to the Claims** are reflected in a listing of claims that begins on page 2 of this paper.
- (2) **Remarks** begin on page 9 of this paper.

04/28/2006 AKELECH1 00000012 10758448

01 FC:2202 175.00 OP
02 FC:2201 100.00 OP